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DE RUEHCN #0157/01 2310958
ZNR UUUUU ZZH
R 190958Z AUG 09
FM AMCONSUL CHENGDU
TO RUEHC/SECSTATE WASHDC 3347
INFO RUEHOO/CHINA POSTS COLLECTIVE
RUEHCN/AMCONSUL CHENGDU 4023

UNCLAS SECTION 01 OF 03 CHENGDU 000157

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: CASC PHUM PGOV CH

SUBJECT: SW CHINA: JUNE FOURTH DISSIDENT, U.S. LPR ZHOU YONGJUN TRIAL SET FOR AUGUST 21

REF: CHENGDU 141

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¶1. (SBU) Summary: US LPR Zhou Yongjun, who was reportedly seized by PRC mainland authorities in Hong Kong in September 2008 and subsequently detained in Guangzhou and Sichuan, will go on trial in Suining, Sichuan on August 21. Zhou's lawyers at the Beijing "Mo Shaoping Law Firm" legal opinion on the case presented to the Suining Public Security Bureau points to serious violations of PRC law in the handling of this case. Zhou is charged with fraud, although his role as 1989 student leader in Tiananmen may well be behind the charges, especially given the recent June 4th-linked prosecutions in Chengdu this August of dissidents Huang Qi and Tan Zuoren. On August 18, Consulate Chengdu sent a diplomatic note to the Sichuan Province FAO requesting to send a consular officer to attend the August 21 trial of Zhou Yongjun. End Summary.

Arrested U.S. LPR Zhou Yongjun was First Tiananmen Student Commander

¶2. (SBU) Zhou Yongjun (aka Yungjun Zhou) of San Gabriel, California was the first leader of the Union of Autonomous Student Unions, an organization of students who occupied Tiananmen Square during May- June 1989. Because of his pro-democracy activities, he was imprisoned from 1989 - 1991. He came to the U.S. as an asylum seeker in 1991, and became a U.S. legal permanent resident in 1993. He was also imprisoned from 1998 - 2002 during a subsequent visit to China. In September 2008 he arrived in the Hong Kong Special Administrative Region, travelling on a Malaysian passport in the name of Wang Xingxiang, and upon arrival was questioned by Hong Kong police in connection with a fraud. The Hong Kong SAR police determined that he was not the Wang Xingxiang they were seeking and released him. Thereupon, reportedly, PRC Public Security arrested him and transported him across the Hong Kong SAR border with mainland China to Shenzhen in Guangdong Province.

Zhou Yongjun Timeline

¶3. (SBU) A September 2008-to-Present Timeline of Zhou Yongjun follows:

-- September 2008, arrives in Hong Kong. Briefly detained and released by Hong Kong SAR police; then detained again and taken to detention across the Hong Kong SAR border to Shenzhen.

-- On November 8, 2008, confronted with public security officers from his hometown of Suining, Sichuan, he finally admitted to Chinese Public Security that his name was Zhou Yongjun.

-- On November 27, 2008 Zhou was moved to the Yantian Detention Center in Guangdong Province.

-- December 12, 2008 query to Consulate General Guangzhou about Zhou Yongjun. Embassy Beijing and State Department notified that day.

-- On December 17, 2008 Consulate General Guangzhou sent a diplomatic note to the Guangdong Province Foreign Affairs Office asking for information on the status of Zhou and that he be given access to a lawyer and his family.

-- On March 24, 2009, the Guangdong FAO replied to ConGen Guangzhou: "Having consulted the relevant agencies, the Foreign Affairs Office does not possess any information about Zhou Yongjun in Shenzhen so far."

-- On May 4, 2009 Zhou was moved to a detention center in Sichuan Province, apparently near his hometown of Suining.

-- June 4, 2009, Zhou Yongjun's lawyers send legal opinion (summary translation below) to Suining Public Security Bureau.

-- August 13, 2009, ConGen Chengdu consular section notified by Zhou's sister who sends materials from Zhou's lawyer.

-- August 15, 2009 ConGen Chengdu notifies Embassy and China Desk.

-- August 18, 2009 ConGen diplomatic note sent to Sichuan Province FAO requesting assistance on consular officer attendance at Zhou Yongjun's trial that begins on August 21, 2009, at the Shehong County Courthouse in Suining, Sichuan.

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Chengdu Diplomatic Note Requests Attendance at Zhou Yongjun's Trial Which Begins August 21

¶4. (U) Zhou is now represented by the Beijing Moshaoping Law Office. The two lawyers defending Zhou Yongjun presented their legal opinion dated June 4, 2009 on the case (summary translation in the appendix) to the Suining, Sichuan Public Security Bureau. Zhou's lawyers argue that:

-- The law was violated by the PRC authorities when they took him across the Hong Kong SAR;

-- PRC mainland authorities have no jurisdiction over a fraud case in Hong Kong SAR;

-- Public Security violated the law by the 140-day delay in reporting Zhou's arrest to his family, which is far above the 37-day delay permitted under PRC law.

-- There is no evidence against Zhou Yongjun apart from the name on his Malaysian passport being the same as the person involved in the Hong Kong fraud case. The authorities in Hong Kong SAR released Zhou after determining that he was not the person he sought. The PRC mainland authorities, who do not have jurisdiction in this matter, are holding him in this matter although the authorities in Hong Kong have already determined that Zhou is not involved.

¶5. (SBU) Comment: This appears to be the third June 4-linked

political prosecution in Sichuan Province this August, following the cases of Huang Qi (August 5) and Tan Zuoren (August 12, see reftel).

¶ 6. (U) This cable has been coordinated with Embassy Beijing and Consulate General Guangzhou.

¶ 7. (U) Appendix: Summary Translation of the Beijing, "Shaoping Law Office" (Beijing Mo Shaoping Lushi Shiwusuo) on Zhou Yongjun Case Sent to Suining, Sichuan Public Security

BEGIN SUMMARY TRANSLATION

Zhou's lawyers argue that:

-- Since Zhou was detained in Hong Kong because of a letter from outside of China mainland to a Hong Kong bank requesting that a funds transfer be made was signed by a person with the name Wang Xingxiang, the same as the spelling of the name in Wang Xingxiang in the Malaysian passport he held. The lawyers argue that since the crime for which he was arrested occurred outside mainland China, mainland China Public Security does not have jurisdiction.

-- The lawyers also argue that since U.S. Immigration has already sent him a notice to be sworn in as a U.S. citizen, then the Chapter Six of the PRC Nationality Law that stipulates "Any Chinese citizen who resides outside of China, who has voluntarily become or acquired foreign citizenship, thereby automatically loses their PRC citizenship" and that Chinese Embassy and local has repeatedly refused to issue him a PRC passport. The lawyers mention that Chapter 7 of the PRC Criminal Law, PRC applies only to PRC citizens overseas, not to foreigners and so PRC Public Security does not have jurisdiction. The lawyers add that according to PRC law and the Vienna Convention, if a person of foreign nationality is detained, or their nationality is unclear, the consulate of their country should be contacted.

-- The lawyers argue that since the case involves a crime

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outside the borders of mainland China and does not involve a person from mainland China, then the question of any harm to China's national interests does not arise. Therefore Public Security does not have jurisdiction in this matter.

--- The evidence: The lawyers argue that there is no evidence linking Zhou Yongjun to this criminal case other than the name on his identity document is the same as the name of the person Wang Xingxiang involved in the case. Zhou Yongjun stated that the Malaysian passport he applied for through an immigration company and that the English name on the passport is that same as the envelope presented as evidence in the case. But states that signature is not his and he never saw it before. Zhou Yongjun mentioned that when this problem came up with the Hong Kong police, they not only released him but apologized as well. The only authorities who have jurisdiction in this case - the Hong Kong authorities - have already determined that Zhou Yongjun is not the person in question.

-- How this case has been handled: Zhou's lawyers argue that when Zhou was detained by Shenzhen police in October 2008 but refused to tell them his name and identity. On November 7th or 8th, public security from Zhou's hometown of Suining, Sichuan sent their police to interview him. Among them was someone who recognized him, so Zhou on that day told the Shenzhen Public Security his true name and identity. The police had the duty under the Chapters 75 and 96 of the PRC Criminal Procedure Law to notify a relative or legal counsel with 37 days but this was not done in a timely way so Zhou was illegally detained for a total of 144 days excluding the period before Zhou told Public Security his real name. The lawyers say that they will bring charges against the Shenzhen Public Security for this serious illegal detention of Zhou Yongjun.

The lawyers conclude:

-- According to Chapters six, seven, and eight of the PRC Criminal Code relating to jurisdiction, the Public Security of mainland China do not have jurisdiction.

-- There is insufficient evidence to indicate that Zhou Yongjun was involved in this criminal case. He should not have been charged nor should compulsory criminal measures be taken against him.

-- The detention of Zhou Yongjun is a serious violation of the law.

Zhou Yongjun was involved in the "June 4th" of 1989 as the first chairman of the union of autonomous student unions (Gao Zilian). This year is the 20th anniversary and so the international community is paying close attention to this issue so we look to the Public Security Bureau to handle this case strictly according to the law, and swiftly determine the facts about this case and according to law dispose of the case of Zhou Yongjun.

Submitted to the Suining City, Sichuan Public Security Bureau

Beijing Mo Shaoping Law Office

(signed) Huang Shaoping

(signed) Chen Zerui

June 4, 2009

END SUMMARY TRANSLATION
BROWN